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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,437	10/18/2001	Steve Brandstetter	P/94-2	6647

7590

10/22/2003

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EXAMINER
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ONEILL, MICHAEL W

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/982,437

Applicant(s)

BRANDSTETTER ET AL.

Examiner

Michael O'Neill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected. *12/11-13-03*
- 7) ☒ Claim(s) 13 is/are objected to *12/11-13-03*
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 6, the phrase "or other goods of value" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "or other goods of value"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05.

***Claim Rejections - 35 USC § 102***

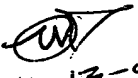
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-12, 14 and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Acres et al. USPN 5,876,284.

The overly-broad claimed invention is clearly disclosed by Acres et al. For instance, Acres et al. discloses a plurality of linked game machines, see figure 1. The game machines shown

  
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in figure 1 are linked to an interactive sign, see col. 19, lines 30-39 where Acres et al. discloses a hanging storm cloud simulation. The activation of the interactive sign is the generation of the bonus event which is disclosed by Acres et al., see section G in the reference which spans columns 19-20. Re. claim 8, see col. 20:49-60.

***Claim Rejections - 35 USC § 103***

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. USPN 5,876,284.

Acres et al. teaches in column 20, lines 49-60 having the bonus base on certain conditions being met. One of ordinary skill in the art understands that it is quite common as a condition for achieve a certain value of bonus a player must insert a number of additional coins into the machine. For example, in a progressive bonus scheme, the player insert an

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extra coin into the machine to become a part of the progressive play. A percentage of that extra coin goes into the progressive bonus pool and if the player achieves a condition that is predetermined, the player wins a percentage of the total progressive bonus pool's value. Likewise, the same can be stated with a plurality of game machines linked together to form a progressive jackpot system and network. Therefore, one skilled in the art deems basing the bonus on the number or amount of coins inserted into one or a plurality of linked game machines as obvious.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al., USPN 5,876,284 in view of Adams USPN 5,848,932.

Acres et al. lacks in disclosing its interactive sign being a "wheel of fortune". Instead, Acres et al. decided to utilize a storm simulation as a means of enticing players to play the game machines linked together. In an analogous device, Adams in figure 4 and column 8 suggests the usage of a "wheel of fortune" as the bonus scheme to entice players to participate in the game. One skilled in the art understand the need to develop ways of enticing players to participate in a casino's game hall or the like. The lack of player participation leads to a lack of revenue for the casino. The opposite is true. Therefore,

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one skilled in the art would be motivated to find alternative ways to entice player participation; in order to avoid player boredom with the same storm simulation. Adams demonstrates an alternative enticement. Therefore, it would be obvious to one skilled in the art to apply the suggestions in Adams as an alternative to what is disclosed in Acres et al. in order to avoid player boredom and thus lack of participation.

Re claims 16 and 17: the limitations herein are further alternatives to what is claimed as a limitation in claim 15. As stated above, those of skill in the art seek alternative ways to keep player interest and thus player participation on the rise. Therefore, these limitation are obvious design choices left to the inventor's discretion; wherein said discretion can be predicated on marketing analysis and factors utilized in casino management operations in order to make the casino maximize its profits.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

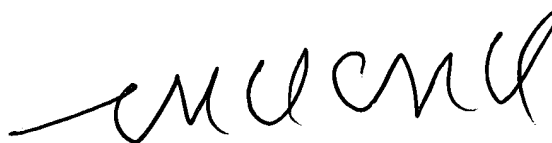
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 703-308-3484. The examiner can normally be reached on Monday through Thursday 8am to 6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J. Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5648.

MON

A handwritten signature in black ink, appearing to read 'M O'Neill', with a long horizontal stroke extending to the left.

**MICHAEL O'NEILL  
PRIMARY EXAMINER**